

For Jm

*Stan -
Whatever happened
to this?
was one ever issued?
a PRB only
I presume!*

12 March 1981

MEMORANDUM FOR: Director of Information Services

STAT FROM:

Chief, Classification Review Division

SUBJECT: Comments on Proposed Manuscript Reviewer's Handbook

REFERENCE: Memorandum from Chairman, PRB;
19 February 1981 (OIS 81-177)

1. From our viewpoint, this proposed handbook contains insufficiently detailed guidance to help reviewers overcome the problems and difficulties met when dealing with actual manuscripts. To provide ways and means for solving the reviewer's problems the handbook should in the main:

- a. Specify a standard format for presentation of review results to the PRB. Components now vary widely in their ways of doing this.
- b. Not require components or reviewers to apply classification stamps or portion markings to the manuscript copies returned to the PRB for consolidation of review results. It should be sufficient merely to indicate deletions on these copies and apply a preliminary, protective classification to the cover sheet. Only the PRB gets all reviewing components' inputs; thus only the PRB can consider them as a whole and apply overall and portion classification markings according to its final determinations.
- c. Include a checklist of subject-matter frequently requiring deletions. Although each manuscript is different, certain types of information recur often enough to warrant their inclusion in such a list. A similar listing of material not usually subject to deletion despite apparent classifiability might also be included.
- d. Provide for feedback to reviewing components of the PRB's actual decisions concerning each manuscript returned to an author with deletion requirements. The minutes of PRB meetings now received are inadequate in many cases; they are not accompanied by any listing of the specific deletions actually demanded.

2. The following comments are keyed to specific handbook pages:

a. Page 3

(1) The secrecy agreement paragraph should be rewritten for clarity. As written, there is confusion as to whether the agreement or PRB is responsible for preventing disclosure.

b. Page 4

(1) The proposed handbook's Executive Order 12065 citations include only sections 1-102, 1-103, and 1-104 defining classification levels. Sections 1-301 (classification categories), 1-302 ("identifiable damage" criterion, etc), and 6-1 definitions should also be cited, along with the corresponding portions of ISOO Directive No. 1 (Federal Register, Vol. 43, No. 194 - October 5, 1978).

(2) There should also be another appendix citing: (a) Chapters III and IV of [] "Agency Information Security Program Handbook," and (b) the four classification guides now in use. The latter need not be included in the reviewer's handbook, since they should be available to the respective reviewing components.

c. Page 7, 12, 13

(1) The handbook does not clearly indicate whether the reviewer is to determine and mark the overall classification level of the manuscript (only) or is to determine the classification of and portion-mark each deniable passage. If the latter, the proposed requirements that manuscript reviewers not only identify classified or classifiable information but also designate classification levels and markings of each of these passages (presumably per [] Chapter IV) will lead to many complications and could delay the review process. The main problems are:

(a) Reviewers will seldom be able to assess accurately the reasonable degree of damage to result from publication of a particular item. Even if actual Agency documents which relate to such an item can be located, the reviewer is not dealing with the information precisely as set forth in those documents themselves but with information which may substantively reflect it, and will seldom, if ever, be identical to it. Thus the reviewer cannot automatically classify the manuscript item on the basis of the document, but must consider whether overt publication of that item would cause the same, a greater, or a lesser degree of damage.

(b) E.O. 12065 prescribes a maximum classification duration of 20 years (30 years for foreign government information) before declassification or review. There is some doubt concerning authority to classify manuscript information relating to events that took place more than 20-30 years ago, as in the case of some retired employees' autobiographical works.

(c) E.O. 12065 currently requires the DCI personally to authorize all classification extensions beyond 20 (or 30) years. In theory, this requirement could apply not only to old agency documents on which the classification of manuscript items may depend, but also to the manuscript information itself, otherwise the classification of both could be held invalid. Such authorizations are routinely obtained in FOIA litigation cases. Similar procedures might be used for classification challenges by litigious manuscript authors.

(d) Classification levels, directions, and some of the required markings can sometimes be derived from our four classification guides; however, it takes time to go through a guide and decide which of several possible citations best fits the manuscript information confronting the reviewer. Present guides are designed to cover initial classification of official Agency information (only) for up to 20/30 years. Their use will not solve the problems of dealing with older material and, in this case, of classifying a manuscript rather than an official document.

(e) Page 7 requires separate identification and citation of classified or classifiable information found in a manuscript and prescribes a rule of thumb whereby "the fewest (sic) number of words possible" should be deleted to eliminate any basis for classification. This rule is valid up to a point, but requires caveats to ensure that deletion of word(s) selected does in fact render the remaining material innocuous not only in the context of the paragraph or passage from which a particular deletion is made but also in terms of related information in the manuscript as a whole. It clearly makes no sense to delete a word or phrase the meaning of which is readily apparent from the undeleted context.

(2) We suggest that the paragraph and sub-paragraphs commencing with "The results of the review..." be rewritten. The sentence structure is awkward, providing completed sentences within the total paragraph which itself is one sentence.

d. Page 7 ff.

(1) There is a fifth method for the reviewer to prevent the unauthorized disclosure of classified or classifiable information: the content can be denied in toto. It is our understanding that, because of the sensitivity of content, there has been complete denial of some publications. .

e. Page 9

(1) The 30-day review cycle should not be adhered to if it is a detriment to careful review. PRB should negotiate an extension of the 30-day deadline with the author in complex cases.

f. Page 10

(1) We recommend the sentence "fiction should not, by definition, be classified" be deleted. The statement is too narrow; fiction can be wholly or partly imaginary, as the guidance goes on to indicate.

g. Page 11

(1) Recognizing the updating problem entailed, it would be helpful if reviewer counterparts in other agencies were identified by name and location or at least components serving as focal points. This would speed up the review by eliminating unnecessary delay caused by reviewers searching for proper offices to contact.

(2) Recommend that specific reference to the protection of foreign government information be included in Chapter V or be made the subject of a separate chapter.

h. Page 12, 13

(1) Experience has shown that when dealing with manuscripts requiring any substantial number of deletions, the reviewing components rarely if ever agree unanimously as to which passages contain classifiable information or on the exact deletions required to sanitize each passage. One of PRB's tasks is (or has been) to reconcile various components' deletion recommendations and consolidate them for presentation to the author. This consolidation often results in abandonment or amendment of some of those recommendations. The requirement for components to classify and apply classification markings to each deniable passage in their copy of the manuscript before consolidation could entail a waste of time and effort. Several differently classified and marked copies of the same manuscript would inevitably be created. It

seems preferable to classify and mark only that which goes back to the author after consolidation; i.e., the pages containing the classified or classifiable information finally selected for deletion.

(2) The E.O. 12065 requirement that only an individual can classify could be met by assigning that task either to the PRB member representing the component responsible for the largest number of final deletions from each manuscript or to each representative in turn, on a rotational basis.

i. Page 14

(1) How can a reviewer tell whether new material has been added without rereading the entire text? All resubmissions should reach reviewers with a copy of the original submission attached and all deletions finally required (after PRB consolidation) identified, to ensure that all deletions were properly made as well as to ascertain whether there have been any significant additions to the original text.

j. Page 15

(1) The proposed handbook's implied requirement for each manuscript reviewer to do his own research concerning possible prior Executive or other disclosure of potentially classifiable information in a manuscript would impose a time-consuming task on reviewers. In many -- if not most -- instances it is an impossible task because of the tight deadlines and the lack of immediately available reference tools, particularly for those reviewers not located in the Headquarters Building. The PRB should carry out, or assign as appropriate, any research deemed necessary or desirable. (The minutes of the PRB meeting of 10 February 1981 mention plans to set up a "Research/Library Group ... to assist the Board in identifying and locating specific materials officially declassified or released previously ...".) Otherwise, reviewers could waste time (if they had time, to begin with) in research to support recommended deletions which did not survive the PRB reconciliation/consolidation process. Only the deletions presented to the author should require extensive research back-stopping, and then only if they cannot be directly justified by E.O. 12065 or by such related material as or the classification guides.

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(2) Two additional sources for research assistance that are not mentioned are the DARE and DECAL information retrieval systems:

(a) DECAL lists Agency documents which have been released (either completely declassified or in a sanitized version)

as a result of an FOIA request or under the mandatory review provisions of E.O. 12065. Call the Information and Privacy Division/OIS, telephone

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(b) DARE lists Agency documents which have been reviewed under the systematic review provisions of E.O. 12065. Call the Classification Review Division/OIS, telephone

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3. We suggest that the author/coordinator of the handbook refer to our memorandum of 7 August 1980 ("Development of Uniform Manuscript Review Guidelines and Procedures") for discussion of some of the views expressed above, as well as others which would be useful as guidance to manuscript reviewers. A copy was forwarded to the Chairman, PRB, under your memorandum of 8 August 1980 (OIS 80-578/1).

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1 - CRD (Publ. Rvw.-Policy & Proc.)

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